

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DALE ROBERT JOHNSON,

Defendant.

CR 21–34–BU–DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto’s Findings & Recommendation Concerning Plea. (Doc. 35.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Mr. Johnson is charged by indictment with one count of conspiracy to possess with the intent to distribute methamphetamine, in violation of 21 U.S.C. § 846 (Count I) and one count of possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Count

II). (Doc. 2.) Judge DeSoto recommends that this Court accept Mr. Johnson's guilty plea as to Count II after he appeared before her pursuant to Federal Rule of Criminal Procedure 11. The Court finds no clear error in Judge DeSoto's Findings and Recommendation and adopts them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report. The Court will adjudicate the issue of forfeiture upon motion of the United States.

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 35) is ADOPTED in full.

IT IS FURTHER ORDERED that Mr. Johnson's motion to change plea (Doc. 28) is GRANTED.

IT IS FURTHER ORDERED that Mr. Johnson is adjudged guilty as charged in Count II of the Indictment.

DATED this 31st day of January, 2022.



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Dana L. Christensen, District Judge  
United States District Court